

### **REMARKS**

In view of the amendments and remarks that follow, Applicants respectfully submit that the application is in condition for allowance. Accordingly, applicants request reconsideration of the application, withdrawal of the rejections of record and issuance of a Notice of Allowance.

Claims 1-26 are pending in the application. Claims 5, 6, 8, 9 and 11-13 are allowed and Claims 1-4, 7, 10 and 14-26 stand rejected for the reasons of record. Claims 1-4, 7, 10 and 14-26 have been canceled and new claims 27-31 have been added. The new claims have been added to more particularly point out and distinctly claim the subject matter regarded as the invention. Claims 5 and 6 have been amended to add the phrase "or a pharmaceutically acceptable salt thereof." The amendments are not considered to involve the addition of new matter and entry thereof is respectfully requested.

The Office has noted that the title of the invention is not descriptive. A new title has been added per the Office's suggestion.

The Office has objected to Claim 18 because the phrase "claim 7" has run together. Claim 18 has been canceled as noted above.

#### **Rejections Under 35 U.S.C. § 112, second paragraph**

Claims 1-4, 7, 10 and 14-26 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Office considers the word "prodrug" to be indefinite.

While disagreeing that the word "prodrug" is indefinite, Claim 1 and the claims depending thereon have been canceled in order to expedite the prosecution of the claims that are indicated as allowable.

#### **Rejections Under 35 U.S.C. § 112, first paragraph**

Claims 1-4, 7, 10 and 14-26 are rejected under 35 U.S.C. § 112, first paragraph, because the specification, while being enabling for making salts of the claimed compounds, does not reasonably provide enablement for making prodrugs of the claimed

compounds. The Office has summarized the factors to be considered in making an enablement rejection and concluded that the claims are not enabled.

Applicants disagree that the specification does not provide any direction. As noted by the Office, pages 11 and 12 of the specification provide more than enough direction to one of ordinary skill in this particular art to prepare prodrugs of the compounds of the invention. References are provided showing various forms of prodrugs and their synthesis. Clearly one skilled in the art would be able to use these references and the knowledge in the art to prepare prodrugs of the instantly claimed compounds.

However, while disagreeing with the Office's conclusion, Claims 1-4, 7, 10 and 14-26, as noted above, have been canceled in order to expedite the prosecution of the claims that are indicated as allowable.

Claims 1-4, 7, 10 and 14-26 are also rejected under 35 U.S.C. § 112, first paragraph, because the specification, while being enabling for making salts of the claimed compounds, does not reasonably provide enablement for making solvates and hydrates of the claimed compounds.

Applicants disagree that the specification does not provide any direction. Clearly one skilled in the art would be able to use the knowledge in the art to prepare solvates and hydrates of the instantly claimed compounds.

However, while disagreeing with the Office's conclusion, Claims 1-4, 7, 10 and 14-26, as noted above, have been canceled in order to expedite the prosecution of the claims that are indicated as allowable.

Claims 18-26 are also rejected under 35 U.S.C. § 112, first paragraph, because the specification does not reasonably provide enablement for treating any proliferative disease, cancer, inflammation, autoimmune disease or diseases associated with signal transduction pathways operating through growth factor receptors. The Office argues that "the specification does not enable any physician skilled in the art of medicine, to make the invention commensurate in scope with these claims. The Office goes on to conclude, after considering a number of factors, that undue experimentation would be required to practice Applicants' invention.

While disagreeing with the Office's conclusion, Claims 18-26, as noted above, have been canceled in order to expedite the prosecution of the claims that are indicated as allowable.

### **Rejections Under 35 U.S.C. § 102**

Claim 1 and 2 are rejected under 35 U.S.C. 102(e) as being anticipated by Leftheris (WO 2002/40486 A2). The Office points to a compound with Registry Number 310444-95-2 that is shown in its keto tautomer form.

Claims 1, 2, 7, 10 and 14-26 are also rejected under 35 U.S.C. 102(e) as being anticipated by Hunt (WO 2000/71129 A1). The Office points to compounds with Registry Numbers 310442-79-6 and 310444-82-2 which allegedly anticipate the compounds, compositions and methods of use in the rejected claims.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Migliara (Journal of Heterocyclic Chemistry). The Office, in this reference, points to a compound with Registry Number 71971-30-7, in its keto tautomer form.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Patil (Journal of Heterocyclic Chemistry). The Office, in this reference, points to a compound with Registry Number 159326-71-3, drawn in its keto tautomer form.

Finally, Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Godfrey ('357). The Office, in this reference, points to a compound with Registry Number 607738-99-8.

Other references as noted on page 16 of the Action were also made of record.

As heretofore noted, Claims 1-4, 7, 10 and 14-26 have been canceled in order to expedite the prosecution of the claims that are indicated as allowable.

Claims 1, 2, 7, 10, 20 and 24 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-7, 12 and 16 of co-pending Application No. 09/573,829.

As heretofore noted, Claims 1, 2, 7, 10, 20 and 24 have been canceled in order to expedite the prosecution of the claims that are indicated as allowable.

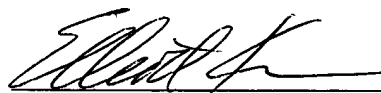
Applicants gratefully acknowledge the indication that Claims 5, 6, 8, 9, and 11-13 are allowable.

In view of the foregoing, Applicants submit that the application is in condition for allowance and courteously solicit a Notice of Allowance.

If any fee due is not accounted for herein, please charge such fee to Deposit Account No. 19-3880. If any extension of time is required and not petitioned for, such extension is hereby petitioned for, and it is requested that any fee due in connection therewith be charged to the aforementioned Deposit Account.

The foregoing response is believed to be fully responsive to the outstanding Office Action. If a direct personal communication would advance the prosecution of this application, please contact the undersigned attorney at the telephone number listed below.

Respectfully submitted,



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